

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JAMES GRAY,

Plaintiff,

v.

MENARD, INC.,

Defendant.

CAUSE NO. 1:20-cv-2214

PETITION FOR REMOVAL OF ACTION

Defendant Menard, Inc., by counsel, and for its Petition for Removal of Action, Menard Inc., states as follows:

1. On June 30, 2020, Plaintiff filed his Complaint against Defendants Menard, Inc., (hereinafter “Menards”) in the Marion Superior Court Civil Division 10, under Cause Number 49D10-2006-CT-021674.

2. In his Complaint, Plaintiff alleges that on March 4, 2020, he was an invitee on the Menard’s premises when slipped and fell, causing him injuries and damages.

3. Plaintiff alleges that he sustained damages as a result of an incident at a Menard’s store.

4. Plaintiff is a citizen of the State of Indiana.

5. Defendant is incorporated under the laws of the State of Wisconsin with its principal place of business in Eau Claire, Wisconsin.

6. Defendant contends that this cause is removable under 28 U.S.C. § 1332 and none of the impediments to removal under 28 U.S.C. § 1445 are present in this action.

7. Defendant certifies that to the best of its knowledge, information and belief, the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, as Plaintiffs' Complaint has a prayer for damages as exceeding \$75,000.00 and alleges that Defendant breached its duty to Plaintiffs causing James Gray to incur "medical expenses and other special expenses, and will incur future medical expenses, lost wages and other special expenses"

8. Defendant was served with Plaintiffs' Complaint by certified mail on July 6, 2020. Pursuant to Marion County Superior Court 10's Order on Defendant's Motion for Extension of Time dated July 14, 2020, Defendant's Answer to Plaintiff's Complaint is due on August 24, 2020.

9. Defendant sought to ascertain the amount in controversy from Plaintiff's counsel on July 20, 2020, July 28, 2020, and August 21, 2020. On August 21, 2020, Plaintiff's counsel confirmed that Plaintiff is unable to limit his damages to \$75,000 or lesser.

10. This Petition for Removal is being filed with the Court within thirty (30) days after determining that the basis for diversity jurisdiction exists.

11. Copies of all pleadings filed in the state court action that are in the possession of Defendant are attached as "Exhibit A".

12. Contemporaneously, a written notice is being provided to all adverse parties and to the Clerk of the Marion Superior Court, Civil Division 10 that this Petition of Removal is being filed in this Court.

WHEREFORE, Defendant, Menard, Inc., prays that the entire state court action pending in the Marion Superior Court, Civil Division 10 of Indiana, under Cause Number 49D10-2006-CT-021674, be removed to this Court for all further proceedings.

Dated: August 24, 2020.

Respectfully submitted,

KOPKA PINKUS DOLIN PC

By: /s/ Jessica N. Hamilton

Jessica N. Hamilton, Atty No. 34268-71

Leslie B. Pollie, Atty No. 25716-49

Attorneys for Menard, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2020, the foregoing has been filed through the Court's ECF system and notice has been electronically served on all counsel of record. Parties may access this filing through the Court's system.

Chris Moeller
Law Office of Ken Nunn
104 South Franklin Road
Bloomington, IN 47404
Attorney for Plaintiffs
chrism@kennunn.com

/s/ Jessica N. Hamilton

Jessica N. Hamilton

KOPKA PINKUS DOLIN PC
550 Congressional Boulevard
Suite 310
Carmel, IN 46032
(317) 818-1360 | office
(317) 818-1390 | fax
jnhamilton@kopkalaw.com

